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E.O. 11652: GDS

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SUBJECT: HUMAN RIGHTS COUNTRY EVALUATION PLAN

1. THE HUMAN RIGHTS COUNTRY EVALUATION PLAN FOR MALAYSIA HAS BEEN COMPLETED, CLEARED WITHIN THE DEPARTMENT AND APPROVED BY THE BUREAU OF HUMANITARIAN AFFAIRS (HA). PART A AND THE INTRODUCTION WILL BE SUBMITTED TO CONGRESS WHILE PART B WILL REMAIN CLASSIFIED. THE TEXT OF PART A APPEARS BELOW. PART B WILL FOLLOW SEPTTEL. CURRENT PLANS ARE FOR PART B TO BE REVIEWED BY THE INTERAGENCY COMMITTEE ON HUMAN RIGHTS (THE CHRISTOPHER COMMITTEE) AT A LATER DATE. PART A WAS SUPPOSED TO BE TYPED IN THE SPECIAL FORMAT FOR THE CPD AND SUBMITTED TO THE DEPUTY SECRETARY BY DECEMBER 15 IN ORDER TO MEET A TIGHT SCHEDULE FOR FINAL SEVENTH FLOOR REVIEW AND PRINTING, BUT A NUMBER OF REPORTS CONFIDENTIAL

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ARE RUNNING LATE. THE TEXT IS BASED ON OR INCORPORATES MAJOR ELEMENTS FROM EMBASSY'S PREVIOUS COMMENTS AND REPORTS.

2. THE TEXT OF PART A IS BEING TRANSMITTED FOR YOUR INFORMATION AND COMMENT BUT NOT FOR DETAILED CLEARANCE OR ALTERATION GIVEN THE CONSTRAINTS UNDER WHICH WE ARE OPERATING. IF POSTS FIND MAJOR FACTUAL ERRORS OR BELIEVE SEVERE DAMAGE WILL RESULT TO US INTERESTS FROM SPECIFIC STATEMENTS, WE SHOULD BE INFORMED BY IMMEDIATE TELEGRAM

WITH EA ONLY CAPTIONS. INSTRUCTIONS WILL BE GIVEN LATER CONCERNING ADVANCE NOTIFICATION OF HOST GOVERNMENTS. YOU SHOULD BE AWARE THAT CHANGES WILL BE EXTREMELY DIFFICULT TO EFFECT AT THIS ADVANCED STAGE FOLLOWING "FINAL" CLEARANCES. TEXT FOLLOWS:

BEGIN TEXT.

HUMAN RIGHTS EVALUATION PLAN - MALAYSIA

INTRODUCTION

MALAYSIA IS GOVERNED UNDER A PARLIAMENTARY SYSTEM MODELED GENERALLY ALONG BRITISH LINES. A NATIONAL FRONT COALITION OF PARTIES DOMINATES PARLIAMENT AT THE PRESENT TIME. THERE IS A SMALL BUT VOCAL OPPOSITION WHICH CRITICIZES THE GOVERNMENT REGULARLY. FREE AND HONEST ELECTIONS ARE HELD AT INTERVALS OF NO LONGER AND USUALLY LESS THAN 5 YEARS. A MULTIRACIAL SOCIETY OF POLITICALLY DOMINANT MALAYS AND ECONOMICALLY INVOLVED CHINESE AND INDIANS, MALAYSIA HAS EXPERIENCED SEVERE COMMUNAL VIOLENCE IN ITS PAST, INCLUDING RACIAL RIOTING IN MAY OF 1969 DURING WHICH HUNDREDS WERE REPORTED TO HAVE DIED. MALAYSIA HAS CONFIDENTIAL

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BEEN ENGAGED IN AN ARMED STRUGGLE WITH THE MALAYAN COMMUNIST PARTY (CPM) SINCE 1948. THE INSURGENCY HAS INCLUDED ASSASSINATIONS AND ACTS OF TERRORISM AS WELL AS GUERRILLA WARFARE. COMMUNIST INSURGENCY AND THE THREAT OF RENEWED COMMUNAL CONFLICT HAVE BEEN CITED BY THE MALAYSIAN GOVERNMENT AS JUSTIFICATION FOR LEGISLATION WHICH MAKES LEGAL THE ARREST AND DETENTION WITHOUT TRIAL OF PERSONS SUSPECTED OF SUBVERSIVE ACTIVITY OR OF OTHER ACTIVITIES THAT THREATEN GENERAL CIVIC ORDER.

OVER THE PAST TWENTY YEARS OF INDEPENDENCE, AND DESPITE THE DEMANDS POSED BY THE COMMUNIST INSURGENCY, MALAYSIA HAS MADE MAJOR ECONOMIC STRIDES AND SOCIAL PROGRESS WITH THE RESULT THAT IT IS ONE OF THE MORE PROSPEROUS COUNTRIES IN ASIA.

A. CONDITIONS OF HUMAN RIGHTS IN MALAYSIA

1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. TORTURE: TORTURE IS NEITHER PRACTICED NOR CONDONED BY THE GOVERNMENT OF MALAYSIA.

B. CRUEL, INHUMAN, OR DEGRADING PUNISHMENTS: NO REPORTS OF THESE PRACTICES HAVE BEEN RECEIVED.

C. ARBITRARY ARREST OR IMPRISONMENT: ARREST AND IMPRISONMENT HAVE OCCURRED WITHOUT BENEFIT OF TRIAL OR THE RIGHT OF HABEAS CORPUS. THE PRESENCE OF THE CPM THREAT AND RACIAL TENSIONS HAVE BEEN CITED BY THE GOM AS JUSTIFICATION FOR THE PERPETUATION AND USE OF EMERGENCY REGULATIONS ORIGINATING UNDER THE BRITISH WHICH LEGALIZE ARREST AND DETENTION WITHOUT OPEN TRIAL OF PERSONS SUSPECTED OF SUBVERSIVE ACTIVITY OR OTHER ACTIONS DETRIMENTAL TO THE DOMESTIC TRANQUILITY OF THE COUNTRY. THE REGULATIONS, CONFIDENTIAL

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KNOWN AS THE INTERNAL SECURITY ACT (ISA) AND THE EMERGENCY ORDERS (PUBLIC ORDER AND PREVENTION OF CRIME, 1969 E.O.) PROVIDE FOR PREVENTIVE DETENTION FOR UP TO TWO YEARS. A DETENTION ORDER CAN BE RENEWED. A PERSON DETAINED UNDER THE EMERGENCY LAWS HAS NO RECOURSE TO THE COURTS IN THE ORDINARY SENSE, BUT AS SOON AS POSSIBLE AFTER ARREST MUST BE TOLD THE REASON AND GIVEN A CHANCE TO ARGUE THE CASE. IF DETENTION IS CONTESTED, IT MUST WITHIN THREE MONTHS BE HEARD BY A THREE-MAN ADVISORY BOARD. IF THE DETENTION CONTINUES, THE CASE IS PERIODICALLY REVIEWED BY THE APPEALS BOARD. IN MOST CASES THE USE OF THE INTERNAL SECURITY ACT APPEARS TO FOLLOW A CYCLE OF ARREST, DETENTION, RECANTATION AND RESTORATION TO PUBLIC RESPECTABILITY. THE EMERGENCY ORDINANCE, WHILE ENACTED IN THE WAKE OF THE MAY 1969 RACIAL DISTURBANCES, HAS IN PRACTICE BEEN MOST OFTEN USED AGAINST NARCOTICS TRAFFICKERS AND OTHER SERIOUS CRIMINALS IN THE ABSENCE OF STRONG CONSPIRACY LAWS. THE NORMAL PATTERN FOR ENFORCING THE E.O. IS TWO YEARS IMPRISONMENT FOLLOWED BY TWO YEARS OF "RESTRICTED RESIDENCE" IN A REMOTE AREA OF THE COUNTRY.

IN ADDITION TO THE ISA AND E.O., THE GOVERNMENT ALSO MAKES USE OF THE EMERGENCY (ESSENTIAL POWERS) ORDINANCE OF 1969. THIS IS THE ENABLING LEGISLATION FOR THE ESSENTIAL (SECURITY CASES) REGULATIONS OF 1975, WHICH RESTRICTS THE RIGHTS OF THE ACCUSED IN "SECURITY CASE" TRIALS BY ALLOWING IN-CAMERA TRIAL, UNIDENTIFIED WITNESSES AND A PRESUMPTION OF GUILT.

THE AMNESTY INTERNATIONAL REPORT OF 1977 STATES THAT SEVERAL HUNDRED MEN AND WOMEN ARE BEING HELD WITHOUT TRIAL FOR POLITICAL REASONS, MANY HAVING BEEN HELD FOR PERIODS OF 8 AND, IN SOME CASES, 3 YEARS. THE REPORT ALSO STATED CONFIDENTIAL

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THAT PUBLIC "CONFESSIONS" OF DETAINED PRISONERS HAVE BEEN USED TO JUSTIFY ADDITIONAL ARRESTS. AMNESTY INTERNATIONAL'S 1975-76 REPORT NOTES THAT SINCE 1975 THERE HAS BEEN A SIGNIFICANT ESCALATION OF GUERRILLA VIOLENCE BY THE

UNDERGROUND MALAYAN COMMUNIST PARTY IN PENINSULAR
MALAYSIA.

D. DENIAL OF A FAIR PUBLIC TRIAL: PUBLIC TRIAL AND
A FAIR HEARING OCCUR IN ALL BUT A SMALL MINORITY OF CASES.
SINCE MALAYSIA, A MEMBER OF THE BRITISH COMMONWEALTH WITH
A RECENT COLONIAL BACKGROUND, HAS MANY FAMILIAR COMMON
LAW FEATURES IN ITS LEGAL SYSTEM, MALAYSIA'S CONCERN FOR
HUMAN RIGHTS GENERALLY COMES FROM THE SAME LEGAL AND
POLITICAL WELL-SPRINGS AS OUR OWN.

E. INVASION OF THE HOME: FREEDOM FROM INVASION OF
THE HOME IS THE GENERAL RULE, WITH THE EXCEPTION BEING
CASES RELATED TO SECURITY LEGISLATION. IN ITS COUNTER-
INSURGENCY EFFORT AGAINST THE COMMUNIST PARTY OF MALAYA,
THE GOVERNMENT OF MALAYSIA MAKES EXTENSIVE USE OF ITS
POWERS UNDER THE INTERNAL SECURITY ACT TO RAID THE HOMES
OF SUSPECTS. THIS PRACTICE GOES BACK TO THE BRITISH
GOVERNMENT DURING THE 1950'S EMERGENCY. IN SEPTEMBER,
1975 FOLLOWING THE ASSASSINATION OF POLICE OFFICERS, THE
BOMBING OF THE NATIONAL MONUMENT, AND THE GRENADING OF A
POLICE CAMP IN KUALA LUMPUR, ABUSES DURING SWEEPS WERE
REPORTED. THE POLICE FIRMLY RE-ESTABLISHED INTERNAL
DISCIPLINE AND FEW ABUSES WERE REPORTED THEREAFTER.

2. RESPECT FOR CIVIL AND POLITICAL LIBERTIES

A(1) FREEDOM OF THOUGHT, RELIGION AND ASSEMBLY:
TENSIONS BETWEEN ETHNIC MALAY AND CHINESE CITIZENS RESULTED
IN RACE RIOTS IN 1969 AND THE SUSPENSION OF PARLIAMENTARY
DEMOCRACY FOR TWO YEARS. SINCE THEN, CERTAIN "SENSITIVE"
TOPICS RELATED TO ETHNIC ORIGINS OR PRIVILEGES MAY NOT BE
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DISCUSSED IN PUBLIC OR IN PARLIAMENT.

A STATE OF EMERGENCY WAS PROCLAIMED DURING THE COM-
MUNAL RIOTING IN ACCORDANCE WITH EXISTING LAW AND CON-
TINUES TO BE IN EFFECT. THE EMERGENCY LAWS ARE DESIGNED
TO REDUCE THE RISK OF COMMUNAL OUTBREAK BY FORBIDDING ANY
PUBLIC EXPLOITATION OF CONSTITUTIONALLY SENSITIVE MATTERS.

THE PRESS AS A CONSEQUENCE IS SOMEWHAT CONSTRAINED.
THE ACTIVITIES AND STATEMENTS OF OPPOSITION POLITICAL
FIGURES AND DOMESTIC POLITICS ARE REPORTED. WHILE THERE IS
NO FORMAL CENSORSHIP, OTHER THAN THE CONSTITUTIONAL PRO-
HIBITIONS AGAINST DISCUSSION OF CERTAIN ETHNICALLY LOADED
TOPICS, THE PRESS IS CIRCUMSPECT IN ITS TREATMENT OF THE
GOVERNMENT.

A(2) THE MALAYSIAN GOVERNMENT SUPPORTS NORMAL TRADE
UNION ACTIVITY. THERE ARE AROUND 100 TRADE UNIONS WITH A

TOTAL OF ABOUT 215,000 MEMBERS. MOST OF THE UNIONS ARE MEMBERS OF THE MALAYSIAN TRADES UNION CONGRESS, AN ACTIVE

MEMBER OF THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS. IT ENJOYS FRIENDLY RELATIONS WITH THE AFL-CIO. NEITHER THE MTUC NOR ITS AFFILIATED UNIONS HAVE FORMAL POLITICAL AFFILIATIONS ALTHOUGH A NUMBER OF TRADE UNION LEADERS ARE ACTIVE IN POLITICS.

B. MALAYSIA IN GENERAL OBSERVES FREEDOM OF MOVEMENT, ALTHOUGH THE CONSTITUTIONAL ARRANGEMENTS PRESERVE A POSSIBLY UNIQUE FEATURE OF FEDERAL STRUCTURE -- THE EAST MALAYSIAN STATES OF SABAH AND SARAWAK, SITUATED HUNDREDS OF MILES FROM PENINSULAR MALAYSIA ON THE ISLAND OF BORNEO, RETAIN COMPLETE CONTROL OVER THEIR OWN IMMIGRATION POLI-
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CIES, INCLUDING FELLOW MALAYSIAN CITIZENS FROM OTHER STATES.

C. DEMOCRATIC PROCESSES ASSURING THE FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS: MALAYSIA IS A PARLIAMENTARY DEMOCRACY GENERALLY ALONG THE BRITISH MODEL, WITH A PRIME MINISTER AND CABINET RESPONSIBLE TO PARLIAMENT. THE HEAD OF STATE IS A CONSTITUTIONAL MONARCH, A KING WHO IS ELECTED FOR A FIVE-YEAR TERM BY THE SULTANS OF WEST MALAYSIA FROM AMONG THEIR OWN MEMBERS. THE BICAMERAL PARLIAMENT CONSISTS OF A SENATE (WITH BOTH APPOINTED AND ELECTED MEMBERS) AND AN ELECTED HOUSE OF REPRESENTATIVES, WHERE A SMALL BUT VOCAL OPPOSITION CRITICIZES THE GOVERNMENT REGULARLY. LEGISLATIVE POWER IS FURTHER DIVIDED BETWEEN FEDERAL AND STATE LEGISLATURES, AND STATE EXECUTIVE ADMINISTRATION ATTENDS TO MATTERS OF LOCAL CONCERN. FREE AND HONEST ELECTIONS ARE HELD AS SPECIFIED BY THE CONSTITUTION, AND DOMESTIC POLITICAL LIFE IS VIGOROUS, WITHIN THE CONSTRAINTS OF THE COMMUNAL BASIS OF POLITICS, INCLUDING SOME RESTRICTIONS ON POLITICAL EXPRESSION.

3. RECENT TRENDS IN GOVERNMENTAL POLICIES RELATING TO THE NEEDS OF THE POOR

A. THE MAIN THRUST OF THE THIRD MALAYSIA PLAN, A FIVE-YEAR DEVELOPMENTAL PLAN ANNOUNCED IN MID-1976, IS THE ALLEVIATION OF RURAL POVERTY IN ALL ITS ASPECTS. THIS PLAN LOGICALLY FOLLOWS EARLIER DEVELOPMENTAL EFFORTS, WHICH CONCENTRATED ON THE BROADENING OF ESSENTIAL SERVICES AND INDUSTRIAL INFRASTRUCTURE.

MALAYSIA IS A MIDDLE-INCOME DEVELOPING COUNTRY (THIRD IN ALL EAST ASIA IN PER CAPITA GNP, AFTER JAPAN AND SINGAPORE), AND THE WORLD'S LEADING SUPPLIER OF SEVERAL PRIMARY COMMODITIES, INCLUDING TIN AND NATURAL

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B. POLITICAL CORRUPTION IS NOT A SIGNIFICANT PROBLEM IN MALAYSIA, ALTHOUGH GRAFT MAY OCCASIONALLY TAKE PLACE ON A SCALE SIMILAR TO THAT IN THE WEST. THE GOVERNMENT HAS VIGOROUSLY PUSHED CRIMINAL PROSECUTION FOR CORRUPTION, INCLUDING POPULAR POLITICAL FIGURES IN THE GOVERNING PARTY.

4. GOVERNMENT RESPONSIBILITY AND INVESTIGATIONS

THE GOVERNMENT HAS GENERALLY ENSURED THAT HUMAN RIGHTS ARE RESPECTED. HOWEVER, IT HAS SUSPENDED CERTAIN HUMAN RIGHTS, ESPECIALLY THE RIGHT TO A TRIAL, FOR REASONS OF SECURITY.

OVER THE PAST TWENTY YEARS OF INDEPENDENCE, AND DESPITE THE DEMANDS POSED BY THE COMMUNIST INSURGENCY, MALAYSIA HAS MADE TREMENDOUS ECONOMIC STRIDES WITH THE RESULT THAT IT IS ONE OF THE MOST PROSPEROUS OF THE DEVELOPING COUNTRIES. IN ITS CONCERN FOR RAISING THE STANDARD OF LIVING OF ALL CITIZENS, AS WELL AS THE CONDUCT OF WHAT AMOUNTS TO A COALITION FORM OF GOVERNMENT ALONG COMMUNAL LINES WITHIN A PARLIAMENTARY SYSTEM, HUMAN RIGHTS ARE AN ACCEPTED REALITY RATHER THAN A STATED GOAL.

IN THIS REGARD, THE REHABILITATION OF FORMER COMMUNIST PARTY OF MALAYA MEMBERS IS A CONCEPT THAT IS PARTICULARLY MARKED. MANY NOW PARTICIPATE IN CIVIL LIFE AFTER A PERIOD OF REEDUCATION AND TRAINING.

5. WILLINGNESS AND PAST RECORD OF THE GOVERNMENT REGARDING INDEPENDENT, OUTSIDE INVESTIGATION OF ALLEGED
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HUMAN RIGHTS VIOLATIONS

MALAYSIA HAS NOT PARTICULARLY ATTRACTED OUTSIDE INVESTIGATIONS ON ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS, ALTHOUGH DOMESTIC ACTIVISTS HAVE IN FACT MET IN KUALA LUMPUR AND THE CAUSES OF SEVERAL INDIVIDUALS DETAINED WITHOUT TRIAL HAVE BEEN RAISED IN THE U.S. AND ELSEWHERE. MALAYSIAN NEWSPAPERS REPORT ON VIOLATIONS OF LEGAL STANDARDS AND ACT AS INFORMAL OMBUDSMEN -- AS DO THE OPPOSITION WITHIN THE MALAYSIAN PARLIAMENT AND THE VERY ACTIVE BAR ASSOCIATIONS. FREEDOM HOUSE HAS CHARACTERIZED MALAYSIA AS "PARTLY FREE". END TEXT. VANCE

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